

United States
Circuit Court of Appeals

For the Ninth Circuit. 7

A. E. ANDERSON,

Plaintiff in Error,

vs.

THAD B. PRESTON,

Defendant in Error,

Transcript of Record.

Upon Writ of Error to the United States District Court of
the Western District of Washington,
Southern Division.

FILED

MAR 12 1925

F. G. MONKTON,
CLERK



United States
Circuit Court of Appeals
For the Ninth Circuit.

A. E. ANDERSON,

Plaintiff in Error,

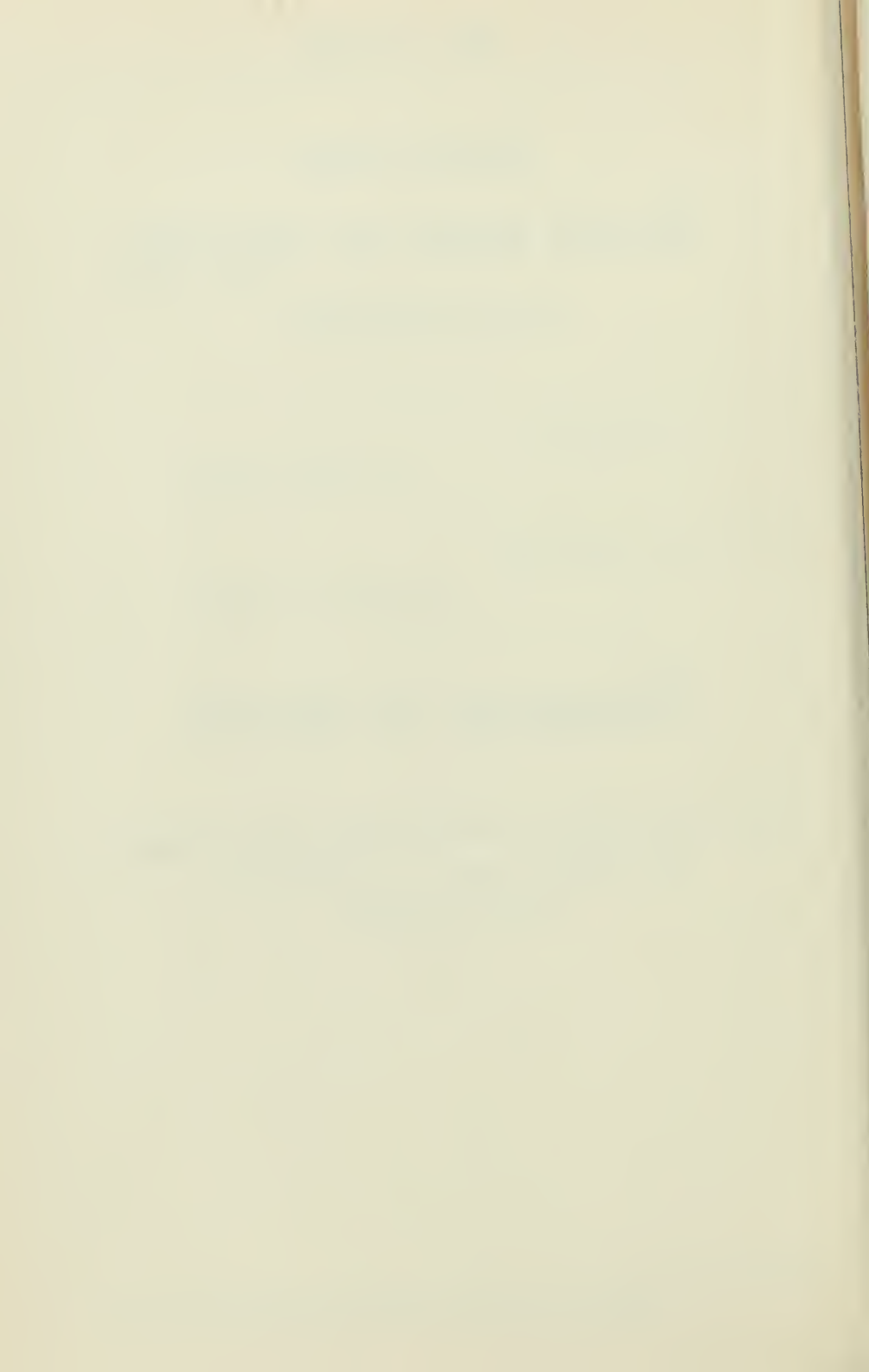
vs.

THAD B. PRESTON,

Defendant in Error,

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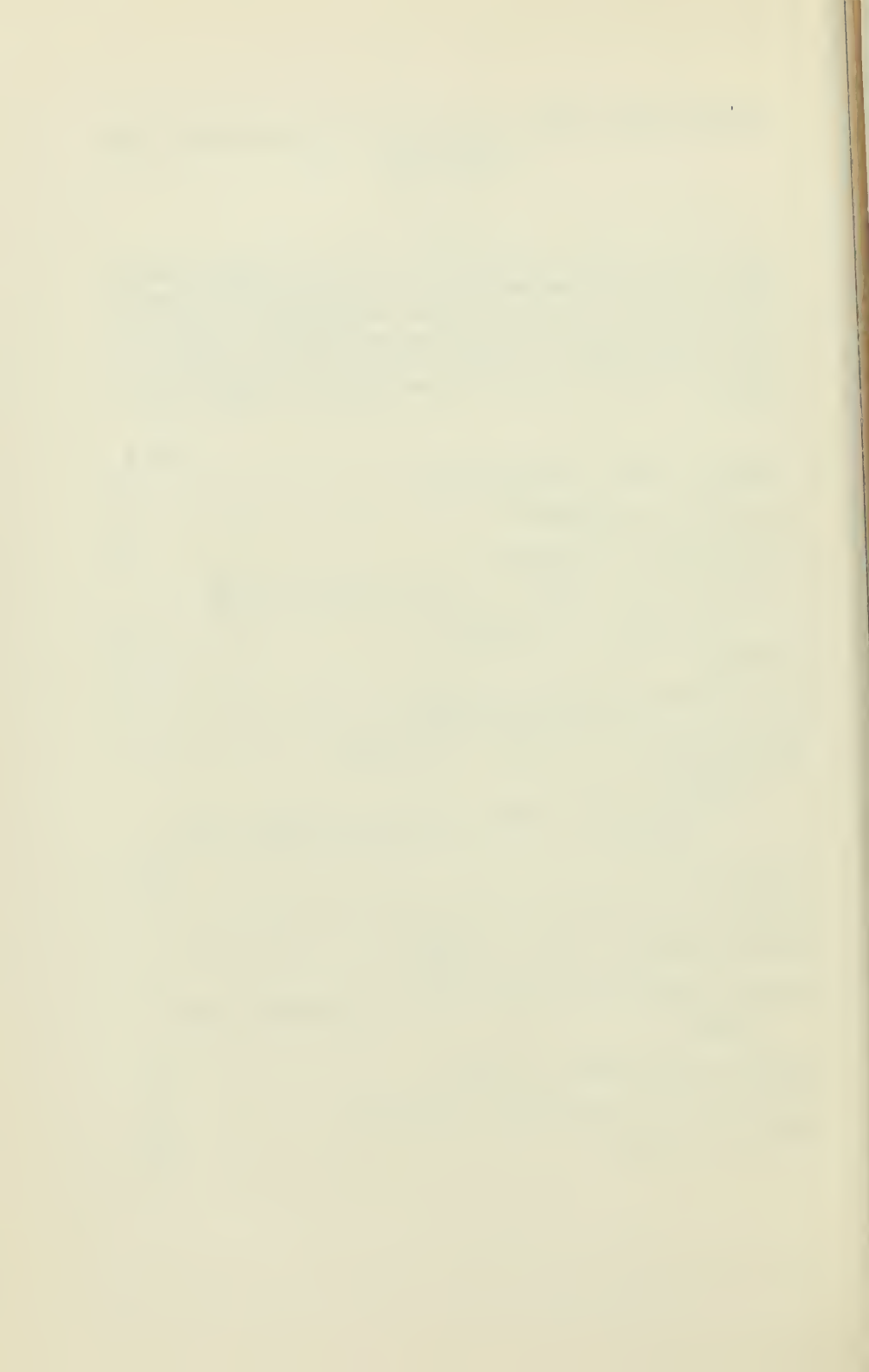
Upon Writ of Error to the United States District Court of
the Western District of Washington,
Southern Division.



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

TEATS, LEO, City Hall, Tacoma, Washington,

TEATS, RALPH, Fidelity Building, Tacoma,
Washington,

Attorneys for Plaintiff in Error.

HOGAN, JOHN C., Aberdeen, Washington,

Attorney for Defendant in Error. [1*]

In the District Court of the United States for the
Western District of Washington, Southern
Division.

No. 4549.

A. E. ANDERSON,

Plaintiff,

vs.

THAD B. PRESTON,

Defendant.

AMENDED COMPLAINT.

Now comes the plaintiff, A. E. Anderson, after first having obtained leave to file this, his amended complaint, against the defendant, Thad B. Preston, for his cause of action herein says:

I.

That the plaintiff, A. E. Anderson, is a citizen of the State of Washington, residing in Tacoma, Pierce County.

*Page-number appearing at foot of page of original certified Transcript of Record.

That the defendant, Thad B. Preston, is a citizen of the State of Michigan and resides in the State of Michigan.

II.

That on or about the 25th day of January, 1923, the said defendant was the owner of, and in control of, with power to sell and convey and with power to contract for the sale and conveyance of timber land as follows: The Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 35, Township 23, North Range 1, West, Willamette Meridian, Kitsap County, Washington, containing 2,220,000 feet of merchantable timber and also all the timber lands in township twenty-two (22), North Range 1, West, Willamette Meridian and situate in Kitsap and Pierce Counties, State of Washington, with stumpage of merchantable timber as follows:

KITSAP COUNTY.

SECTION 1.

The North quarter, in other words, the North half of the North half, containing 3,153,000 feet;

[2] The Southwest quarter of the Northwest quarter and the Northwest quarter of the Southwest quarter containing 1,130,000 feet;

The Northeast quarter of the Southwest quarter containing 990,000 feet;

The Southwest quarter of the Northeast quarter containing 876,000 feet;

The Northwest quarter of the Southeast quarter containing 983,000 feet;

The Southwest quarter of the Southeast quarter containing 860,000.

SECTION 2.

The Northwest quarter containing 3,240,000 feet;

The South half of the Southwest quarter, containing 3,230,000 feet;

The Northwest quarter of the Northeast quarter containing 940,000 feet;

The South half of the Northeast quarter containing 1,443,000 feet;

The North half of the Southeast quarter containing 1,771,000 feet.

SECTION 11.

The Northeast quarter of the Northeast quarter and the South half of the Northeast quarter, containing 3,600,000 feet;

The West half of the Northwest quarter containing 3,445,000 feet;

The Southwest quarter containing 4,790,000 feet.

SECTION 12.

The Northwest quarter of the Southwest quarter and the North half of the Southwest quarter of the Southwest quarter being sixty (60) acres containing 1,380,000 feet.

PIERCE COUNTY.

SECTION 13.

The South half of the Northwest quarter containing 2,088,000 feet.

SECTION 14.

The Northwest quarter, containing 4,540,000 feet;

The Northeast quarter containing 3,738,000 feet;

The North half of the Southeast quarter containing 2,160,000 feet;

The Southeast quarter of the Southeast quarter containing 380,000 feet.

SECTION 15.

The Northwest quarter containing 4,276,000 feet;

The Northeast quarter, containing 5,805,000 feet;

The North half of the Southeast quarter containing 2,260,000 feet.

SECTION 22.

The Southeast quarter of the Northeast quarter and the Northeast quarter of the Southeast quarter containing 2,568,000 feet;

That all of the above-described timber lands contain in all 61,866,000 feet of merchantable timber. [3]

III.

That on or about the 25th day of January, 1923, the defendant, knowing that the plaintiff was a timber broker and as such procured purchasers for owners of timber, and timber lands, the said defendant having employed plaintiff in such work, on or about the said 25th day of January, 1923, entered into an agreement in writing whereby he employed the plaintiff as his agent and broker to sell and to find purchasers of the above-described timber lands for him, at the price of Three (\$3.00) Dollars per thousand feet; and on such terms that would meet the view of a substantial purchaser; and in writing agreed to pay the plaintiff a commission of five per cent (5%) of the purchase price; and in said writing described the land he employed plaintiff

to sell, and the amount of stumpage merchantable timber thereon being the basis of sale of said lands as above set forth in paragraph two.

That the writing referred to herein, whereby the defendant employed this plaintiff as his broker and agent consisted of a series of correspondence had between the plaintiff herein and the defendant, T. B. Preston, in part as follows, to wit:

Ionia Michigan 1/15/23.

Dear Mr. Anderson:

We have a tract in township 22-1 West, that I think is very desirable timber. The price of this is three dollars (\$3) per thousand. If you would be at all interested, kindly let me know.

Yours truly,

(Signed) T. B. PRESTON.

Tacoma, Washington 1/20/23.

Dear Mr. Preston:

In regard to the tract in 22-1 West, if you will give me the minutes of same (Township Platt or Section platt with parcels marked off) so that their would be no mistake made in descriptions, I will put it up to this party, as he is anxious for a logging chance.

I would like very much to have your terms on this tract, so that I may be able to talk to him intelligently on the condition of sale, and I presume that you pay commission out of the \$3.00 per M.

Thanking you in advance for this information, I am

Yours truly,

(Signed) A. E. ANDERSON. [4]

Ionia, Michigan 1/25/23.

Dear Mr. Anderson:

Yours of the 20th inst.

I am enclosing plat of the lands in 22-1 and that was the basis of our purchase of these lands.

On sale of the lands at \$3.00 per thousand there would be a 5% commission going to you. I presume terms could be made that would meet the views of a substantial purchaser.

Yours truly,

(Signed) T. B. PRESTON.

That the said plat of the lands in Township twenty-two (22), North of Range one (1), and the Two forties in Section thirty-five (35), Township twenty-three (23), which accompanied the letter of T. B. Preston of January 25, and referred to in said letter, was sent and given the said plaintiff herein for the purpose of describing fully and completely the timber lands which the defendant owned and claimed to own and which plaintiff was to sell for the said defendant. The said timber lands being checked off with a cross as to each and every forty and fractional part of a forty, by said defendant, so that the same was definite and complete in itself.

That as a part of said plat, and a part of said written agreement between plaintiff and defendant, the said defendant had written upon the said plat a memorandum setting forth the different portions or forties and the amount of merchantable timber in feet contained on each forty or fractional part of section which amount of timber

contained and was submitted to plaintiff as the basis of sale which the plaintiff was to make as the agent of said defendant. A copy of said plat together with the memorandum made thereon, with the amount of timber upon each subdivision is hereto attached, marked Exhibit "A" and referred to herein and made a part hereof. That the said lands contained in all 61,866,000 feet of merchantable timber, the basis of the sale which the plaintiff was to make for the defendant of his said timber lands. [5]

IV.

That the said plaintiff herein believing the representation of the said defendant and relying upon his statement that the said defendant owned the said timber lands and that the said timber lands contained the amount of timber represented by defendant as herein alleged, proceeded under his employment as broker to procure and obtain a substantial purchaser for all of the said tracts of timber land, who was willing, able and ready to buy all of said timber lands at the price quoted the plaintiff by the defendant, to wit: Three (\$3.00) Dollars per thousand feet and upon such terms as the said defendant might require, to wit; terms "that would meet the views of a substantial purchaser." That on or about the 16th day of June, 1923, the plaintiff herein did obtain and procure substantial purchasers, to wit: Donald McFadden, J. C. Sams and J. L. Peters, mill operators and dealers in timber and timber lands, brought the said intending purchasers to the said defendant who at that time

was represented by one, W. J. Patterson of Aberdeen, Washington as the agent of the defendant, with authority to make the sale and treat with the said intending purchasers. That thereupon said purchasers proceeded to cruise all of said lands, whereupon on or about the 1st day of November, 1923, the said defendant refused to proceed with and consummate the said sale and for the first time known to this plaintiff or to the intending purchasers informed the said intending purchasers and this plaintiff, that he, the defendant, did not own all of said timber lands and owned only the following described portion thereof, to wit:

The Northeast quarter of Section 15, and the Southeast quarter of the Northeast quarter and the Northeast quarter of the Southeast quarter of Section 22, Township 22, Range 1, West. [6]

And the said defendant informed the said intending purchasers that he could not convey and could not consummate the sale.

V.

That the purchase price of said timber lands at the quoted price of Three (\$3.00) Dollars per thousand feet on the stumpage fixed by the defendant as herein alleged and set forth was in the sum of \$185,598.00 and that plaintiff's commission at five per cent as agreed upon on said sum was in the sum of \$9279.90.

That this plaintiff has performed all his part, duties and obligations to the said defendant under his employment as said broker and the defendant is indebted to this plaintiff by reason of his em-

ployment in the sale of said land, and his procuring substantial purchasers, ready, willing and able to purchase all of said timber lands as herein set forth in the sum of Nine Thousand Two Hundred and Seventy-nine and 90/100 (\$9279.90) Dollars, together with interest thereon at the rate of six per cent per annum from the first day of November, 1923.

WHEREFORE plaintiff prays judgment against the said defendant in the sum of Nine Thousand Two Hundred and Seventy-nine and 90/100 (\$9279.90) Dollars, together with interest thereon at the rate of six per cent per annum from the 1st day of November, 1923, together with the plaintiff's costs and disbursements herein.

TEATS & TEATS,

Attorneys for Plaintiff. [7]

State of Washington,
County of Pierce,—ss.

A. E. Anderson, being first duly sworn on oath, deposes and says: That he is the plaintiff named in the above-entitled action; that he has read the foregoing amended complaint, knows the contents thereof and that the same are true as he verily believes.

A. E. ANDERSON.

Subscribed and sworn to before me this 28th day of November, 1924.

[Seal]

RALPH TEATS,

Notary Public in and for the State of Washington,
Residing at Tacoma. [8]

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Nov. 29, 1924. F. M. Harshberger, Clerk. By E. Redmayne, Deputy. [10]

DEMURRER TO AMENDED COMPLAINT.

Now comes the defendant in the above-entitled cause and demurs to the amended complaint of the plaintiff herein upon the ground that said complaint does not state facts sufficient to constitute a cause of action against this defendant.

JOHN C. HOGAN,
Attorney for Defendant.

Served by mail on Dec. 16, 1924, on Teats, Teats & Teats, Attorneys for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Dec. 26, 1924. F. M. Harshberger, Clerk. By E. Redmayne, Deputy. [11]

ORDER SUSTAINING DEMURRER TO
AMENDED COMPLAINT.

This cause coming on to be heard upon the demurrer of the defendant to the amended complaint, and the plaintiff appearing by his attorneys, Teats & Teats, and the defendant appearing by his attorney, John C. Hogan, and after hearing the arguments, the court being fully advised,—

IT IS ORDERED, that the said demurrer be and the same is hereby sustained,

To which ruling of the court the plaintiff excepts and his exception is allowed.

Dated January 2, 1925.

EDWARD E. CUSHMAN,

Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 3, 1925. Ed M. Lakin, Clerk. By E. Redmayne, Deputy. [12]

JUDGMENT.

The above-entitled cause coming on regularly to be heard upon the demurrer of the defendant to the amended complaint of the plaintiff herein, and the plaintiff appearing by his attorneys, Teats & Teats, and the defendant appearing by his attorney, John C. Hogan, and after hearing the arguments of counsel and after due consideration, the Court being fully advised, sustained said demurrer and entered an order sustaining the same, whereupon the plaintiff through his attorneys, announced in open court that he would stand upon the amended complaint and would refuse to plead further, whereupon the defendant moved the court for a judgment of dismissal of the action with prejudice and costs which motion was granted. Therefore on motion of the defendant,

IT IS ORDERED AND ADJUDGED that this action be and the same is hereby dismissed with prejudice and that the defendant recover of the plaintiff his costs taxed in the sum of \$—.

IT IS FURTHER ORDERED AND ADJUDGED that the attachment of real estate heretofore made in this action by writ of attachment issued out of the Superior Court of the State of Washington for Pierce County, prior to the removal of this cause to the Federal Court, be and the same is hereby dissolved.

Plaintiff excepts and his exception is allowed.

Dated January 10, 1925.

EDWARD E. CUSHMAN,
Judge. [13]

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. By Ed. M. Lakin, Clerk.
[14]

ASSIGNMENT OF ERRORS.

To the United States Circuit Court of Appeals
for the Ninth Circuit:

Now comes the above plaintiff in error, A. E. Anderson, by his attorneys, Teats & Teats, and says that the record and proceedings in the court below in the above-entitled cause, there is material error, in this:

1st. That the Court erred in sustaining a demurrer of the defendant therein to the amended complaint of the plaintiff therein, for the reason

that the said amended complaint states facts constituting a complete cause of action against the defendant therein.

2d. That the Court erred in rendering judgment therein dismissing the plaintiff's action at his cost for the reason that the said judgment was contrary to law.

TEATS & TEATS,
Attorneys for the Plaintiff in Error.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. Ed M. Lakin, Clerk.
[15]

PETITION FOR WRIT OF ERROR.

To the Honorable Judge of the United States Circuit Court of Appeals for the Ninth Circuit:

Now comes A. E. Anderson, plaintiff in error, and petitions this Honorable Court to allow a writ of error to be directed to the District Court of the United States for the Western District of Washington, Southern Division to remove to this United States Circuit Court of Appeals, for the Ninth Circuit for a review thereof, the record in the case lately pending in said court below, wherein the above-named plaintiff in error was plaintiff and the above-named defendant in error, was defendant and particularly the record of the order and judgment rendered by said District Court in said cause wherein the said court below sustained the demurrer of the defendant to the amended com-

plaint of the plaintiff and rendered a judgment wherein the said Court dismissed the said plaintiff's said cause at his costs; said judgment was duly entered on record therein on the 10th day of January, 1925.

Your petitioner respectfully states that he has this day filed herewith his assignment of errors committed by the Court below in said cause and intended to be urged by your petitioner and plaintiff in error in the prosecution of this suit in error.

Dated this 10th day of January, 1925.

TEATS & TEATS,
Attorneys for Plaintiff in Error.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. By Ed M. Lakin, Clerk.
[16]

WRIT OF ERROR.

United States of America,—ss.

The President of the United States of America, to
the Judges of the District Court of the United
States for the District of Washington, South-
ern Division, GREETING:

Because in the record and proceeding, and also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between A. E. Anderson, plaintiff, and Thad B. Preston, defendant, a manifest error hath happened, to the great damage of the said plaintiff, A. E. Anderson, as by his complaint appears, and it

being fit, that the error if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Court of Appeals, for the Ninth Judicial Circuit, together with this writ, so that you have the same at the city of San Francisco in the State of California, within thirty days from the date of this writ in the said Circuit Court of Appeals, to be there and then held, that the record and proceedings aforesaid be inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness, the Honorable WILLIAM H. TAFT, Chief Justice of the Supreme Court of the United States, this 10th day of January (1925), in the year of our Lord, one thousand nine hundred and twenty-five, and of the Independence of the [17] United States the one hundred and forty-ninth.

ED M. LAKIN,

Clerk U. S. District Court, District of Washington.

By ED M. LAKIN,

Clerk.

The above writ of error is hereby allowed.

EDWARD E. CUSHMAN,

U. S. District Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. By Ed M. Lakin, Clerk.
[18]

CITATION.

United States of America,—ss.

To Thad B. Preston, GREETING:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, to be held at the city of San Francisco, in the State of California, within thirty days from the date of this writ, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Western District of Washington, Southern Division, wherein A. E. Anderson is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness, the Honorable WILLIAM H. TAFT, Chief Justice of the United States, this 10th day of Jany., A. D. 1925, and of the independence of the United States, the one hundred and forty-ninth.

EDWARD E. CUSHMAN,

U. S. District Judge.

Attest: ED M. LAKIN,

Clerk of the U. S. District Court, Western District of Washington, Southern Division.

Service accepted this 16th day of January, 1925.

JOHN C. HOGAN,

Attorney for Defendant in Error.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. Ed M. Lakin, Clerk.
[19]

COST BOND ON WRIT OF ERROR.

KNOW ALL MEN BY THESE PRESENTS:

That we, A. E. Anderson, as principal, and Fidelity & Deposit Company of Maryland, as surety, are held and firmly bound unto Thad B. Preston, defendant herein in the full and just sum of Two Hundred (\$200.00) Dollars, to be paid to said Thad B. Preston, his heirs, executors, administrators or legal representatives, to which payment, well and truly to be made, we bind ourselves, our heirs, successors and assigns jointly and severally, firmly by these presents.

Sealed under our seals and dated this 12th day of January, 1925.

WHEREAS, lately in the District Court of Washington, Southern Division, in an action pending in said Court between A. E. Anderson as plaintiff, and Thad B. Preston as defendant, a judgment was signed on the 29th day of December, 1924, and became operative as the final judgment in favor of the said defendant and against the said plaintiff, dismissing the plaintiff's cause of action, at his costs to be taxed according to law, and the said A. E.

Anderson having obtained from said Court a writ of error to reverse said judgment in the aforesaid action, and a citation directed to the above-named defendant citing and admonishing him to appear in the United States Circuit Court of Appeals for the Ninth Circuit, to be held at San Francisco, State of California; and [20]

WHEREAS the said Circuit Court of Appeals, for the Ninth Circuit, in allowing said writ of error, has fixed the amount of cost bond in said action in the sum of Two Hundred (\$200.00) Dollars;

NOW, THEREFORE, the consideration of this obligation is such that if the said A. E. Anderson, plaintiff in error, shall prosecute his said writ to effect, and answer all damages and costs, if he shall fail to make his plea good, then his obligation to be void; otherwise, to remain in full force and effect.

A. E. ANDERSON,
Plaintiff in Error.

By TEATS & TEATS,
Attorneys for Plaintiff in Error.

FIDELITY & DEPOSIT CO., OF MARYLAND.

[Seal]

J. C. ROWLAND,
Attorney-in-fact.

United States of America,
State of Washington,
County of Pierce,—ss.

AFFIDAVIT AND JUSTIFICATION.

On this 12th day of January, 1925, before me personally came I. C. Rowland, known to me to be

the resident attorney-in-fact of the Fidelity and Deposit Company of Maryland, a corporation described in and which executed the within and foregoing bond of A. E. Anderson and Fidelity & Deposit Company of Maryland as a surety thereon and who, being by me duly sworn, did depose and say: That he resides in the city of Tacoma, State of Washington; that he is the resident attorney-in-fact of said Company and knows the corporate seal thereof; that the said Fidelity and Deposit Company of Maryland is duly and legally incorporated under the Laws of the State of Maryland; that the seal affixed to the within bond of A. E. Anderson, as principal and Fidelity and Deposit Company of Maryland, as surety, is the corporate [21] seal of said Company and was thereto affixed by order and authority of the Board of Directors of said company and that he signed his name thereto by like order and authority as resident attorney-in-fact of said company, and that the assets of said company unencumbered and liable to execution, exceed its claims, debts and liabilities, of every nature whatsoever, by more than the sum of Four Hundred (\$400.00) Dollars.

I. C. ROWLAND.

(Deponent's Signature.)

Sworn to, acknowledged before me and subscribed in my presence this 12th day of January, 1925.

[Seal]

H. T. HANSEN,

Notary Public in and for the State of Washington,
Residing at Tacoma, Pierce County, Washing-
ton.

The foregoing bond and surety thereby offered is hereby approved this 12th day of January, 1925.

EDWARD E. CUSHMAN,
U. S. District Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 12, 1925. By Ed M. Lakin, Clerk.
[22]

ORDER ALLOWING WRIT OF ERROR.

Let a writ of error in the above cause issue as prayed for in the petition, upon the plaintiff in error giving and furnishing a cost bond in the sum of Two Hundred (\$200.00) Dollars to be approved by the Court.

Dated this 10th day of January, 1925.

EDWARD E. CUSHMAN,
United States District Judge and One of the Judges
of the United States Circuit Court of Appeals
for the Ninth Circuit, Residing in the Above-
entitled Court, at Tacoma, Washington.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. Ed M. Lakin, Clerk.
[23]

ACCEPTANCE OF SERVICE.

This is to certify that the undersigned attorney of record in the above-entitled cause, for the above-

named defendant has this day received a copy of the assignment of errors, petition for writ of error and order allowing writ of error in the above-entitled cause.

Dated this 9th day of January, 1925.

JOHN C. HOGAN,
Attorney for Defendant in Error.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 10, 1925. Ed M. Lakin, Clerk.
[24]

PRAECIPE FOR TRANSCRIPT OF RECORD.

Please make and certify for the Circuit Court of Appeals in the above-entitled action the following files and records, to wit:

Amended complaint.

Demurrer to amended complaint.

Order sustaining demurrer to amended complaint.

Judgment of dismissal and for costs.

Assignment of errors.

Petition for writ of errors.

Writ of error.

Citation.

Cost bond on writ of error.

Order allowing writ of error.

Acceptance of service.

Omit captions.

Dated this 21 day of January, 1925.

TEATS & TEATS,
Attorneys for Plaintiff in Error.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Southern Division. Jan. 21, 1925. Ed. M. Lakin, Clerk. By E. Redmayne, Deputy. [25]

CERTIFICATE OF CLERK U. S. DISTRICT COURT TO TRANSCRIPT OF RECORD.

United States of America,
Western District of Washington,—ss.

I, Ed M. Lakin, Clerk of the United States District Court for the Western District of Washington, do hereby certify and return that the foregoing is a true and correct copy of the record and proceedings in the case of A. E. Anderson, Plaintiff, *versus* Thad B. Preston, Defendant, as required by praecipe of counsel filed and shown herein, and as the originals thereof appear on file and of record in my office in said District at Tacoma; and that the same constitute my return on the annexed writ of error herein.

I further certify and return that I hereto attach and herewith transmit the original writ of error and the original citation herein.

I further certify that the following is a full, true and correct statement of all expenses, costs, fees and charges as incurred and paid in my office by and on behalf of the plaintiff in error herein, for making record, certificate and return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's Fees (Sec. 828 R. S. U. S., for making record, certificate and return, 48 folios @ 15¢ each	\$7.20
Certificate of Clerk to Transcript 3 folios at 15¢ each45
Seal to said certificate20

Attest my hand and the seal of said District [26]
Court at Tacoma, in said District, this 30th day
of January, A. D. 1925.

ED M. LAKIN,
Clerk.

By Alice Huggins,
Deputy. [27]

[Endorsed]: No. 4484. United States Circuit Court of Appeals for the Ninth Circuit. *A. E. Anderson*, Plaintiff in Error, vs. *Thad B. Preston*, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Western District of Washington, Southern Division.

Filed February 2, 1925.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.